THE BILLS OF EXCHANGE ACT

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THE BILLS OF EXCHANGE ACT

Cap. 40. Act 25 of 1968.

[*1893.*]

PART I. *Preliminary*

1. This Act may be cited as the Bills of Exchange Act. Short title.

2. In this Act— Interpretation.

"acceptance" means an acceptance completed by delivery or notification;

"action" includes counter-claim and set-off;

"banker" includes a body of persons, whether incorporated or not, who carry on the business of banking;

"bankrupt" includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to bankruptcy;

"bearer" means the person in possession of a bill or note which is payable to bearer;

"bill" means bill of exchange and "note" means promissory note;

"delivery" means transfer of possession, actual or constructive, from one person to another;

"holder" means the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof;

"holiday" means any day appointed by law, to be kept as a holiday, or as a day of fast or thanksgiving, but not Christmas Day or Good Friday;

"indorsement" means an indorsement completed by delivery;

"issue" means the first delivery of a bill or note, complete in form, to a person who takes it as a holder;

"person" includes a body of persons, whether incorporated or not;

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"value" means valuable consideration;
"written" includes printed, and "writing" includes print.

PART II. *Bills of Exchange*
Form and Interpretation

Bill of exchange defined.

3. A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a certain sum in money to or to the order of a specified person, or to bearer.

An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with—

(*a*) an indication of a particular fund out of which the drawee is to reimburse himself, or a particular account to be debited with the amount; or

(*b*) a statement of the transaction which gives rise to the bill—

is unconditional.

A bill is not invalid by reason—

(*c*) that it is not dated;

(*d*) that it does not specify the value given, or that any value has been given therefor;

(*e*) that it does not specify the place where it is drawn, or the place where it is payable.

Inland and foreign bills.

4. An inland bill is a bill which is, or on the face of it purports to be—

(*a*) both drawn and payable within this Island; or

(*b*) drawn within this Island upon some person resident therein.

Any other bill is a foreign bill.

Unless the contrary appear on the face of the bill, the holder may treat it as an inland bill.

Effect where different parties to bill are the same person.

5. A bill may be drawn payable to or to the order of the drawer; or it may be drawn payable to or to the order of the drawee.

Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

Address of drawee.

6. The drawee must be named or otherwise indicated in a bill with reasonable certainty.

A bill may be addressed to two or more drawees, whether they are partners or not, but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.

Certainty required as to payee.

7. Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

Where the payee is a fictitious or non-existing person the bill may be treated as payable to bearer.

What bills are negotiable.

8. When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable,

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it is valid as between the parties thereto, but is not negotiable.

A negotiable bill may be payable either to order or to bearer.

A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

Sum payable.

9. The sum payable by a bill is a sum certain within the meaning of this Act, although it is required to be paid—

(*a*) with interest;

(*b*) by stated instalments;

(*c*) by stated instalments, with a provision that upon default in payment of any instalment the whole shall become due;

(*d*) according to an indicated rate of exchange, or according to a rate of exchange to be ascertained as directed by the bill.

Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated from the issue thereof.

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Bill payable on demand.

10. A bill is payable on demand—

(*a*) which is expressed to be payable on demand, or at sight, or on presentation; or

(*b*) in which no time for payment is expressed.

Where a bill is accepted or indorsed when it is overdue it shall, as regards the acceptor who so accepts, or any indorser who so indorses it, be deemed a bill payable on demand.

Bill payable at a future time.

11. A bill is payable at a determinable future time within the meaning of this Act which is expressed to be payable—

(*a*) at a fixed period after date or sight;

(*b*) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

Omission of date in bill payable after date.

12. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly:

Provided that—

(*a*) where the holder in good faith and by mistake inserts a wrong date; and

(*b*) in every case where a wrong date is inserted,

if the bill subsequently comes into the hands of a holder in due course, the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

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Ante-dating and post-dating.

13. Where a bill or an acceptance, or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance or indorsement, as the case may be.

A bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday.

Computation of time of payment.

14. Where a bill is not payable on demand the day on which it falls due is determined as follows—

Three days, called days of grace, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace:

Provided that—

(*a*) when the last day of grace falls on a Sunday, Christmas Day, Good Friday, or a holiday, the bill is, except in the case hereinafter provided for, due and payable on the preceding business day; except that

(*b*) when the last day of grace is a holiday and the second day of grace is a Sunday, Christmas or Good Friday, the bill is due and payable on the succeeding business day.

Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the day of payment.

Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest if the bill be noted or protested for non-acceptance, or for non-delivery.

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The term "month" in a bill means calendar month.

Case of need.

15. The drawer of a bill, and any indorser, may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the "referee in case of need". It is in the option of the holder to resort to the referee in case of need or not, as he may think fit.

Optional stipulations by drawer or indorser.

16. The drawer of a bill, and any indorser, may insert therein an express stipulation negativing or limiting his own liability to the holder, waiving as regards himself some or all of the holder's duties.

Definition and requisites of acceptance.

17. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

An acceptance is invalid unless it complies with the following conditions, namely—

(*a*) it must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient;

(*b*) it must not express that the drawee will perform his promise by any other means than the payment of money.

Time for acceptance.

18. A bill may be accepted—

(*a*) before it has been signed by the drawer, or while otherwise incomplete;

(*b*) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment.

When a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the

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holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

General and qualified acceptances.

19. An acceptance is either (*a*) general or (*b*) qualified.

A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

In particular an acceptance is qualified which is—

(*a*) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;

(*b*) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

(c) local, that is to say, an acceptance to pay only at a particular specified place:

An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere;

(*d*) qualified as to time;

(*e*) the acceptance of some one or more of the drawees, but not of all.

Inchoate instruments.

20. Where a simple signature on a blank stamped paper is delivered by the signer in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit.

In order that any such instrument, when completed, may be enforceable against any person who became a party

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thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact:

Provided that if any such instrument, after completion, is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time, and strictly in accordance with the authority given.

21. Every contract on a bill, whether it be the drawer's, the acceptor's or an indorser's is incomplete and revocable, until delivery of the instrument in order to give effect thereto: Delivery.

Provided that where an acceptance is written on a bill, and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

As between immediate parties, and as regards a remote party other than a holder in due course, the delivery in order to be effectual—

(*a*) must be made either by or under the authority of the party drawing, accepting or indorsing, as the case may be;

(*b*) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

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Capacity and Authority of Parties

Capacity of parties.

22. Capacity to incur liability as a party to a bill is co-extensive with capacity to contract:

Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor or indorser of a bill unless it is competent to it so to do under the law for the time being in force relating to corporations.

Where a bill is drawn or indorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

Signature essential to liability.

23. No person is liable as drawer, indorser or acceptor, of a bill who has not signed it as such:

Provided that where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name.

The signature of the name of a firm is equivalent to the signature, by the person so signing, of the names of all persons liable as partners in that firm.

Forged or unauthorized signature.

24. Subject to the provisions of this Act, where a signature on a bill is forged, or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority:

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Provided that nothing in this section shall affect the ratification of an unauthorized signature not amounting to a forgery.

25. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority. *Procuration signatures.*

26. Where a person signs a bill as drawer, indorser or acceptor, and adds words to his signature indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability. **Person signing as agent or in representative capacity.**

In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

The Consideration for a Bill

27. Valuable consideration for a bill may be constituted by— **Value and holder for value.**

(*a*) any consideration sufficient to support a simple contract;

(*b*) an antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

Where value has at any time been given for a bill, the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be

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a holder for value to the extent of the sum for which he has a lien.

Accommodation bill or party.

28. An accommodation party to a bill is a person who has signed a bill as drawer, acceptor or indorser, without receiving value therefor, and for the purpose of lending his name to some other person.

An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

Holder in due course.

29. A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely—

(*a*) that he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact;

(*b*) that he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

In particular the title of a person who negotiates a bill is defective, within the meaning of this Act, when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

A holder (whether for value or not) who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

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Presumption of value and good faith.

30. Every party whose signature appears on a bill is *prima facie* deemed to have become a party thereto for value. Every holder of a bill is *prima facie* deemed to be a holder in due course; but if in an action on a bill, it is admitted or proved that the acceptance, issue or subsequent negotiation of the bill is affected with fraud, duress, or force and fear, or illegality the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

Negotiation of Bills

Negotiation of bills.

31. A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

A bill payable to bearer is negotiated by delivery.

A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such titles as the transferor had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferor.

Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

Requisites of a valid indorsement.

32. An indorsement, in order to operate as a negotiation, must comply with the following conditions, namely—

It must be written on the bill itself, and be signed by the indorser. The simple signature of the indorser on the bill, without additional words, is sufficient.

An indorsement written on an allonge, or on a "copy" of a bill issued or negotiated in a country where

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"copies" are recognized, is deemed to be written on the bill itself.

It must be an indorsement of the entire bill. A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill.

Where a bill is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is misspelt, he may indorse the bill as therein described, adding, if he thinks fit, his proper signature.

Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved.

An indorsement may be made in blank or special. It may also contain terms making it restrictive.

Conditional indorsement.

33. Where a bill purports to be indorsed conditionally the condition may be disregarded by the payer, and payment to the indorsee is valid, whether the condition has been fulfilled or not.

Indorsement in blank and special indorsement.

34. An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer.

A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

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The provisions of this Act relating to a payee apply, with the necessary modifications, to an indorsee under a special indorsement.

When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing, above the indorser's signature, a direction to pay the bill to or to the order of himself, or some other person.

Restrictive indorsement.

35. An indorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed, and not a transfer of the ownership thereof, as, for example, if a bill be indorsed "pay D only", or "pay D for the account of X", or "pay D or order for collection".

A restrictive indorsement gives the indorsee the right to receive payment of the bill, and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee, unless it expressly authorize him to do so.

Where a restrictive indorsement authorizes further transfer, all subsequent indorsees take the bill with the same rights, and subject to the same liabilities, as the first indorsee under the restrictive indorsement.

Negotiation of overdue or dishonoured bill.

36.—(1) Where a bill is negotiable in its origin it continues to be negotiable until it has been (*a*) restrictively indorsed, or (*b*) discharged by payment or otherwise.

(2) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

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(3) A bill payable on demand is deemed to be overdue, within the meaning and for the purposes of this section when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4) Except where an indorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this subsection shall affect the rights of a holder in due course.

Negotiation of bill to party already liable thereon.

37. Where a bill is negotiated back to the drawer, or to a prior indorser, or to the acceptor, such party may, subject to the provisions of this Act, reissue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Rights of the holder.

38. The rights and powers of the holder of a bill are as follows—

He may sue on the bill in his own name.

Where he is a holder in due course, he holds the bill free from any defect of titles of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill.

Where his title is defective—

(*a*) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill; and

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(*b*) if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

General Duties of the Holder

When presentment for acceptance is necessary.

39. Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

Time for presenting bill payable after sight.

40. Subject to the provisions of this Act, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

If he do not do so, the drawer and all indorsers prior to that holder are discharged.

In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

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Rules as to presentment for acceptance, and excuses for non-presentment.

41. A bill is duly presented for acceptance which is presented in accordance with the following rules—

(*a*) The presentment must be made by or on behalf of the holder to the drawee, or to some person authorized to accept or refuse acceptance on his behalf, at a reasonable hour on a business day, and before the bill is overdue.

(*b*) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only.

(*c*) Where the drawee is dead, presentment may be made to his personal representatives.

(*d*) Where the drawee is bankrupt, presentment may be made to him or to his trustee.

(*e*) Where authorized by agreement or usage, a presentment through the post office is sufficient.

Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(i) where the drawee is dead or bankrupt, or is a fictitious person, or a person not having capacity to contract by bill;

(ii) where, after the exercise of reasonable diligence, such presentment cannot be effected;

(iii) where, although the presentment has been irregular, acceptance has been refused on some other ground.

The fact that the holder has reason to believe that the bill on presentment will be dishonoured does not excuse presentment.

Non-acceptance.

42. When a bill is duly presented for acceptance and is not accepted within the customary time, the person present-

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ing it must treat it as dishonoured by non-acceptance. If he does not, the holder shall lose his right of recourse against the drawer and indorsers.

Dishonour by non-acceptance and its consequences.

43. A bill is dishonoured by non-acceptance—

(*a*) when it is duly presented for acceptance, and such an acceptance as is prescribed by this Act is refused, or cannot be obtained; or

(*b*) when presentment for acceptance is excused and the bill is not accepted.

Subject to the provisions of this Act, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

Duties as to qualified acceptances.

44.—(1) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

(2) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The provisions of this subsection do not apply to a partial acceptance, whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance.

(3) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto.

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Rules as to presentment for payment.

45. Subject to the provisions of this Act, a bill must be duly presented for payment. If it be not so presented the drawer and indorsers shall be discharged.

A bill is duly presented for payment which is presented in accordance with the following rules—

(*a*) Where the bill is not payable on demand, presentment must be made on the day it falls due.

(*b*) Where the bill is payable on demand, then, subject to the provisions of this Act, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its indorsement in order to render the indorser liable.

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.

(*c*) Presentment must be made by the holder, or by some person authorized to receive payment on his behalf, at a reasonable hour on a business day, at the proper place as hereinafter defined, either to the person designated by the bill as payer, or to some person authorized to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found.

(*d*) A bill is presented at the proper place—

(i) where a place of payment is specified in the bill and the bill is there presented;

(ii) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented;

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(iii) where no place of payment is specified and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if known;

(iv) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence.

(*e*) Where a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorized to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.

(*f*) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.

(*g*) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative if such there be, and with the exercise of reasonable diligence he can be found.

(*h*) Where authorized by agreement or usage, a presentment through the post office is sufficient.

Excuses for delay or non-presentment for payment.

46. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

Presentment for payment is dispensed with—

(*a*) where, after the exercise of reasonable diligence, presentment, as required by this Act, cannot be

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effected. The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment;

(*b*) where the drawer is a fictitious person;

(*c*) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented;

(*d*) as regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented;

(*e*) by waiver of presentment, express or implied.

Dishonour by non-payment.

47. A bill is dishonoured by non-payment (*a*) when it is duly presented for payment and payment is refused or cannot be obtained; or (*b*) when presentment is excused and the bill is overdue and unpaid.

Subject to the provisions of this Act, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

Notice of dishonour and effect of non-notice.

48. Subject to the provisions of this Act, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged:

Provided that—

(*a*) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission shall not be prejudiced by the omission;

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(*b*) where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

49. Notice of dishonour, in order to be valid and effectual, must be given in accordance with the following rules— Rules as to notice of dishonour.

(*a*) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill.

(*b*) Notice of dishonour may be given by an agent, either in his own name, or in the name of any party entitled to give notice, whether that party be his principal or not.

(*c*) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders, and all prior indorsers who have a right of recourse against the party to whom it is given.

(*d*) Where notice is given by or on behalf of an indorser entitled to give notice as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given.

(*e*) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment.

(*f*) The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour.

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(*g*) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice, unless the party to whom the notice is given is in fact misled thereby.

(*h*) Where notice of dishonour is required to be given to any person, it may be given either to the party himself, or to his agent in that behalf.

(*i*) Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative if such there be, and with the exercise of reasonable diligence he can be found.

(*j*) Where the drawer or indorser is bankrupt, notice may be given either to the party himself or to the trustee.

(*k*) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others.

(*l*) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter.

In the absence of special circumstances, notice is not deemed to have been given within a reasonable time, unless—

(i) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill;

(ii) where the person giving and the person to receive notice reside in different places, the

notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day, then by the next post thereafter.

(*m*) Where a bill, when dishonoured, is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal, upon receipt of such notice, has himself the same time for giving notice as if the agent had been an independent holder.

(*n*) Where a party to a bill receives due notice of dishonour, he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that the holder has after the dishonour.

(*o*) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office.

Excuses for non-notice and delay.

50. Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate the notice must be given with reasonable diligence.

Notice of dishonour is dispensed with—

(*a*) when, after the exercise of reasonable diligence, notice, as required by this Act, cannot be given to or does not reach the drawer or indorser sought to be charged;

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(*b*) by waiver, express or implied. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice;

(*c*) as regards, the drawer in the following cases, namely: (1) where drawer and drawee are the same person; (2) where the drawee is a fictitious person or a person not having capacity to contract; (3) where the drawer is the person to whom the bill is presented for payment; (4) where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill; (5) where the drawer has countermanded payment;

(*d*) as regards the indorser in the following cases, namely: (1) where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the bill; (2) where the indorser is the person to whom the bill is presented for payment; (3) where the bill was accepted or made for his accommodation.

Noting or protest of bill.

51.—(1) Where an inland bill has been dishonoured it may, if the holder think fit, be noted for non-acceptance or non-payment, as the case may be; but it shall not be necessary to note or protest any such bill in order to preserve the recourse against the drawer or indorser.

(2) Where a foreign bill, appearing on the face of it to be such, has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where such a bill, which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be a foreign bill, protest thereof in case of dishonour is unnecessary.

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(3) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(4) Subject to the provisions of this Act, when a bill is noted or protested it may be noted on the day of its dishonour and must be noted not later than the next succeeding business day. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

(5) Where the acceptor of a bill becomes bankrupt or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

(6) A bill must be protested at the place where it is dishonoured:

Provided that—

(*a*) when a bill is presented through the post office, and returned by the post dishonoured, it may be protested at the place to which it is returned, and on the day of its return if received during business hours, and if not received during business hours, then not later than the next business day;

(*b*) when a bill, drawn payable at the place of business or residence of some person other than the drawee, has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to or demand on the drawee is necessary.

(7) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

(*a*) the person at whose request the bill is protested;

(*b*) the place and date of protest, the cause or reason for protesting the bill, the demand made and the

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answer given, if any, or the fact that the drawee or acceptor could not be found.

(8) Where a bill is lost or destroyed, or is wrongly obtained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(9) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Duties of holder as regards drawee or acceptor.

52. When a bill is accepted generally, presentment for payment is not necessary in order to render the acceptor liable.

When, by the terms of a qualified acceptance, presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

Liabilities of Parties

Funds in hands of drawee.

53. A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Act is not liable on the instrument.

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Liability of acceptor.

54. The acceptor of a bill, by accepting it—

(*a*) engages that he will pay it according to the tenor of his acceptance;

(*b*) is precluded from denying to a holder in due course—

(i) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill;

(ii) in the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement;

(iii) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement.

Liability of drawer or indorser.

55. The drawer of a bill by drawing it—

(*a*) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder, or any indorser who is compelled to pay it:

Provided that the requisite proceedings on dishonour be duly taken;

(*b*) is precluded from denying to a holder in due course the existence of the payee, and his then capacity to indorse.

The indorser of a bill by indorsing it—

(i) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder, or a subsequent indorser who is compelled to pay it:

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Provided that the requisite proceedings on dishonour be duly taken;

(ii) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature, and all previous indorsements;

(iii) is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.

Stranger signing bill liable as indorser.

56. Where a person signs a bill otherwise than as drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course.

Measure of damages against parties to dishonoured bill.

57. Where a bill is dishonoured, the measure of damages, which shall be deemed to be liquidated damages shall be as follows—

The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior indorser—

(*a*) the amount of the bill;

(*b*) interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case;

(*c*) the expenses of noting, or, when protest is necessary and the protest has been extended, the expenses of protest.

In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange, with interest thereon until the time of payment.

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Where by this Act interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

Transferor by delivery and transferee.

58. Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery".

A transferor by delivery is not liable on the instrument.

A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

Discharge of Bill

Payment in due course.

59. A bill is discharged by payment in due course by or on behalf of the drawee or acceptor.

"Payment in due course" means payment made at or after the maturity of the bill to the holder thereof in good faith, and without notice that his title to the bill is defective. Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser it is not discharged; but—

(*a*) where a bill payable to or to the order of a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(*b*) where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and sub-

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sequent indorsements, and again negotiate the bill.

Where an accommodation bill is paid in due course by the party accommodated the bill is discharged.

Banker paying demand draft whereon indorsement is forged.

60. When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith, and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee, or any subsequent indorsement, was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority.

Acceptor the holder at maturity.

61. When the acceptor of a bill is or becomes the holder of it at or after maturity, in his own right, the bill is discharged.

Express waiver.

62. When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

The liabilities of any party to a bill may in like manner be renounced by the holder before, at or after, its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

Cancellation.

63. Where the bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any indorser who

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would have had a right of recourse against the party whose signature is cancelled is also discharged.

A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where a bill, or any signature thereon, appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

Alteration of bill.

64. Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is avoided except as against a party who has himself made, authorized or assented to, the alteration, and subsequent indorsers:

Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor.

In particular the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and, where a bill has been accepted generally, the addition of a place of payment without the acceptor's assent.

Acceptance and Payment for Honour

Acceptance for honour supra protest.

65. Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill supra protest, for the

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honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

A bill may be accepted for honour for part only of the sum for which it is drawn.

An acceptance for honour supra protest in order to be valid must—

(*a*) be written on the bill, and indicate that it is an acceptance for honour;

(*b*) be signed by the acceptor for honour.

Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honour.

Liability of acceptor for honour.

66. The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts.

The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

Payment to acceptor for honour.

67. Where a dishonoured bill has been accepted for honour supra protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the

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bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

Payment for honour supra protest.

68. Where a bill has been protested for non-payment, any person may intervene and pay it supra protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

Payment for honour supra protest, in order to operate as such, and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it.

The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

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The payer for honour, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

Where the holder of a bill refuses to receive payment supra protest, he shall lose his right of recourse against any party who would have been discharged by such payment.

Lost Instruments

Holder's right to duplicate of lost bill.

69. Where a bill has been lost before it is overdue the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill, alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

Action on lost bill.

70. In any action or proceeding upon a bill, the court or a Judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the satisfaction of the court or Judge against the claims of any other person upon the instrument in question.

Bill in a Set

Rules as to sets.

71. Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill.

Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if the said parts were separate bills.

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Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, deemed the true owner of the bill; but nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course he is liable on every such part as if it were a separate bill.

When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

Conflict of Laws

Rules where laws conflict.

72. Where a bill drawn in one country is negotiated, accepted or payable, in another, the rights, duties and liabilities, of the parties thereto are determined as follows—

The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity, as regards requisites in form of the supervening contract, such as acceptance or indorsement, or acceptance supra protest, is determined by the law of the place where such contract was made:

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Provided that—

(*a*) where a bill is issued out of this Island, it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue;

(*b*) where a bill issued out of this Island conforms, as regards requisites in form, to the law of this Island, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in this Island.

Subject to the provisions of this Act, the interpretation of the drawing, endorsement, acceptance, or acceptance supra protest, of a bill is determined by the law of the place where such contract is made:

Provided that, where an inland bill is indorsed in a foreign country, the indorsement shall, as regards the payer, be interpreted according to the law of this Island.

The duties of the holder with respect to presentment for acceptance or payment, and the necessity for or sufficiency of a protest or notice of dishonour, or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.

Where a bill is drawn out of, but payable in, this Island, and the sum payable is not expressed in the currency of this Island, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.

Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

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PART III. *Cheques on a Banker*

73. A cheque is a bill of exchange drawn on a banker payable on demand. Cheque defined.

Except as otherwise provided in this Part, and in section 93, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque. 25/1968 S. 2.

74. Subject to the provisions of this Act— Presentment of cheque for payment.

where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right, at the time of such presentment, as between him and the banker, to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid;

in determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case;

the holder of such cheque, as to which such drawer or person is discharged, shall be a creditor, in lieu of such drawer or person, of such banker, to the extent of such discharge, and entitled to recover the amount from him.

75. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by— Revocation of banker's authority.

(1) countermand of payment;

(2) notice of the customer's death.

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Crossed Cheques

General and special crossings defined.

76.—(1) Where a cheque bears across its face an addition of—

(*a*) the words "and company" or any abbreviation thereof between two parallel transverse lines, either with or without the words "not negotiable"; or

(*b*) two parallel transverse lines simply, either with or without the words "not negotiable",

that addition constitutes a crossing, and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially, and to that banker.

Crossing by drawer or after issue.

77.—(1) A cheque may be crossed generally or specially by the drawer.

(2) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3) Where a cheque is crossed generally, the holder may cross it specially.

(4) Where a cheque is crossed generally or specially, the holder may add the words "not negotiable".

(5) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

Crossing a material part of cheque.

78. A crossing authorized by this Act is a material part of the cheque; it shall not be lawful for any person to

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obliterate or, except as authorized by this Act, to add to or alter the crossing.

Duties of banker as to crossed cheques.

79.—(1) Where a cheque is crossed specially to more than one banker, except when crossed to an agent for collection, being a banker, the banker on whom it is drawn shall refuse payment thereof.

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid:

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, the banker paying the cheque in good faith, and without negligence, shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated, or having been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker as the case may be.

Protection to banker and drawer where cheque is crossed.

80. Where the banker on whom a crossed cheque is drawn, in good faith, and without negligence, pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights, and be

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placed in the same position, as if payment of the cheque had been made to the true owner thereof.

Effect of crossing on holder.

81. Where a person takes a crossed cheque which bears on it the words "not negotiable", he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Protection to collecting banker.

82. Where a banker, in good faith and without negligence, receives payment for a customer of a cheque crossed generally, or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment. A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

PART IV. *Promissory Notes*

Promissory note defined.

83.—(1) A promissory note is an unconditional promise in writing, made by one person to another, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to or to the order of a specified person, or to bearer.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is endorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4) A note which is, or on the face of it purports to be, both made and payable within this Island is an inland note. Any other note is a foreign note.

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Delivery necessary.

84. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

Joint and several notes.

85.—(1) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2) Where a note runs "I promise to pay", and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable on demand.

86.—(1) Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

Presentment of note for payment.

87.—(1) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable,

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but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

Liability of maker.

88. The maker of a promissory note by making it—

(*a*) engages that he will pay it according to its tenor;

(*b*) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

Application of Part II to notes.

89.—(1) Subject to the provisions in this Part, and except as by this section provided, the provisions of this Act relating to bills of exchange apply, with the necessary modifications, to promissory notes.

(2) In applying those provisions, the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, provisions relating to—

(*a*) presentment for acceptance;

(*b*) acceptance;

(*c*) acceptance supra protest;

(*d*) bills in a set.

(4) Where a foreign note is dishonoured, protest thereof is unnecessary.

PART V. *Supplementary*

Good faith.

90. A thing is deemed to be done in good faith within the meaning of this Act, where it is in fact done honestly whether it is done negligently or not.

Signature.

91.—(1) Where, by this Act, any instrument or writing is required to be signed by any person, it is not necessary

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that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority.

(2) In the case of a corporation, where by this Act any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

Computation of time.

92. Where, by this Act, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded.

"Non-business days" for the purposes of this Act mean Sunday, Good Friday, Christmas Day or any holiday.

Any other day is a business day.

Saturdays. 25/1968 S. 3.

93.—(1) In all matters relating to bills or notes—

(*a*) if the time for doing any act or thing expires or falls on a Saturday, that time is deemed to expire or fall, as the case may be, on the next succeeding business day;

(*b*) a bill or note payable on demand cannot be duly presented for acceptance or payment on a Saturday; and

(*c*) failure to do any act or thing on a Saturday does not give rise to any rights.

(2) Notwithstanding any other provision of this Act, a cheque may be presented and paid on a Saturday if the drawee is open for business at the time of the presentment and the presentment in all other respects is in accordance with this Act; and the non-acceptance or non-payment of a cheque so presented gives rise to the same rights as though

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it had been presented on a business day other than a Saturday.

When noting equivalent to protest.

94. For the purposes of this Act, where a bill or note is required to be protested within a specified time, or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time, or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.

Protest when Notary not accessible.

95. Where a dishonoured bill or note is authorized or required to be protested, and the services of a Notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill.

Schedule.

The form given in the Schedule may be used with necessary modifications, and if used shall be sufficient.

Dividend warrants may be crossed.

96. The provisions of this Act as to crossed cheques shall apply to a warrant for payment of dividend.

Savings.

97.—(1) The rules in bankruptcy relating to bills of exchange, promissory notes and cheques, shall continue to apply thereto, notwithstanding anything in this Act contained.

(2) The rules of common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to bills of exchange, promissory notes and cheques.

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(3) Nothing in this Act shall affect—

(*a*) the provisions of the Stamp Duty Act, or any enactment amending the same, or any law or enactment for the time being in force relating to the Revenue;

(*b*) the provisions of the Companies Act or any enactment amending it, or any law relating to Joint Stock Banks or Companies.

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(Section 95)

SCHEDULE

Form of protest which may be used when the services of a Notary cannot be obtained

Know all men that I, A. B., householder, of

in the parish of , in the Island of Jamaica, at the request of *C.D.*, there being no Notary Public available, did on the day of , 19 , at , demand payment (*or* acceptance) of the bill of exchange hereunder written, from *E.F.*, to which demand he made answer (*state answer, if any*) wherefore I now, in the presence of *G.H.*, and *I.K.*, do protest the said bill of exchange.

(Signed) *A.B.*
G.H.
I.K.
} *Witnesses*

N.B.—*The Bill itself should be annexed, or a copy of the bill and all that is written thereon should be underwritten.*

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